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# STATE PRISONS

AND THE

## PENITENTIARY SYSTEM

## VINDICATED,

WITH OBSERVATIONS ON MANAGING AND CONDUCTING THESE  
INSTITUTIONS; DRAWN PRINCIPALLY FROM EXPERIENCE.

ALSO,

SOME PARTICULAR REMARKS AND DOCUMENTS  
RELATING TO THE

## MASSACHUSETTS STATE PRISON.

BY AN OFFICER OF THIS ESTABLISHMENT  
AT CHARLESTOWN.

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S. ETHERIDGE,—CHARLESTOWN.

1821.



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the House of Representatives*

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## ADVERTISEMENT.

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THE remarks and observations contained in the following pages, were first prepared for, and published a few months ago, in the New-England Palladium. They are now offered to the Public, in a more collected and durable shape, with a view of giving them more extensive circulation, and to invite farther attention to a subject, highly important and interesting.

## CHAPTER I.

### INTRODUCTION.

*Improvements in Jurisprudence; The philanthropist Howard;  
Object of this work to shew the advantages of the Peni-  
tentiary System; and notice of other writers on the subject.*

IMPROVEMENT in the state of society, and in the moral and physical condition of man, is progressive, and has been gradually advancing from the barbarity of the first ages of the world to that degree of polish and refinement which is the boast of the present time.

During the latter part of the last century, and that part of the present which has already elapsed, many useful discoveries in the sciences have been made, and as they have been brought into operation, corresponding advantages have resulted to those nations and people who have adopted them.

As this, however, is emphatically styled the age of inventions and experiment, many false plans for reforming or improving upon the customs, and manners, and laws of our ancestors have been formed and recommended, which, on the test of experience, have not only failed to be useful, but in some instances proved injurious. This very naturally leads to a scrutiny of any new system which may be offered to the Public, and authorizes a prudent suspicion of whatever may be proposed in theory, until suitable and sufficient experiment shall have proved its merits and utility.

Among many other subjects of reform, the treatment of criminals, and that part of jurisprudence which relates to criminal cases and to the punishment of felons and violators of law, has not escaped the attention of enlightened men. The great Philanthropist, Howard, was among the first of benevolent men who

aroused the sympathy of the world, and directed it towards the misery and sufferings of their unhappy fellow-beings who were immured in Prisons. He, himself, however, did little more than explore the clime and open the way, by tracing his own progress as it were on a map, and thus leave a guide to those who might be induced to follow him. But he deserved and has received a lasting credit, not only for the partial good which his unwearied endeavours immediately produced, but more particularly for his undaunted spirit and perseverance in the cause of humanity and benevolence—having encountered all the perils and hardships of enterprising discoverers, who venture among rocks and shoals, and encounter the unknown dangers of an unknown coast, without a pilot or a chart.

The prospect once opened, discovered so much to interest the feelings of humanity, that many men have exerted their talents and benevolence, to devise a system of punishment, which whilst it comported with the peace and safety of society, should at the same time be tempered with mercy, have regard to the immediate comfort of the unhappy tenants of a Prison, and above all, afford opportunity for, and encourage in them repentance and reformation.

A system of this nature was early set on foot in the United States on the plan of a Penitentiary, and is now in operation in almost every State in the Union: it is not, however, without its opposers, but is by many considered as one of those new plans for reform, which, on experiment, fails of producing the desired effects. It is the object of the present work to examine this system, notice the ground of opposition to it, and endeavour to shew, from facts and experience, that the first principles thereof are correct, and that with some small improvements, and under any thing like a proper management, it possesses peculiar advantages over every other method of punishing criminals heretofore practised, particularly as it respects the following important objects, viz.—the peace and safety of society, expense to the community, restraining the increase of crimes, and promoting the moral improvement of convicts.

As there has been already much written upon the subject, and many speculative opinions advanced as to the management of State Prisons and Penitentiaries, and the treatment of persons therein confined, it will come within the scope of my present purpose to notice some of these writings and opinions, and to confirm or combat them, as they may appear to be well founded or fallacious and visionary.

The subject of prison discipline has been largely discussed in England, and several works describing the state of their Prisons, the faults in managing them, method to remedy these faults, with various plans for revising and improving their penal laws, have reached this country. Bentham, Buxton, Roscoe, and Gurney, have all borne testimony to the faulty method of punishing criminals in England, and ventured to point out and recommend a system, which would nearly resemble what is now generally practised in the United States. In Great Britain, capital\* punishment has been tried and persevered in, to a degree which has at last become shocking to the nation; transportation has been found to involve an immense expense; and confinement in county jails, where there is no means of exercise by labor, nor religious instruction for pious or moral improvement, is attended with pernicious effects both to the bodily constitution and to the mind.

Since, then, in the old countries the former mode of treatment and punishment of criminals has been found so defective, let us not be hasty to abandon the later one which has been introduced among us, but give it a fair experiment, improving as we go along, from practice, observation, and experience, and in the end it will be found, that no system of punishment is so well calculated to insure the peace and safety of society, to promote the cause of humanity, and afford an opportunity for reclaiming some culprits who are not too hardened and depraved, as Penitentiaries and State Prisons.

\* In 1817, there were 1302 convictions in England for capital offences; in 1818, there were 1254. See *Edinburg Review*, No. 67.

## CHAPTER II.

*Necessity of punishment; its design and effects; Example improper and ineffectual.*

WHEN men become associated in society, it is necessary to have laws by which this society shall be regulated and governed. The rights of each individual must be protected, and to this end, those turbulent and unjust members who would otherwise invade or injure those rights, must be restrained. Punishment, inflicted or threatened, seems to be the only effectual method that can be devised for enforcing such restraint. Reward may tempt men to do good, but no dependence can be placed on its negative operation of preventing men from doing evil. Punishment, therefore, for the promotion of good in society is necessary—but it becomes an interesting inquiry to be satisfied also, to what degree of severity it may be carried, and yet be just. It is not easy, perhaps, to construct such a scale of crimes and punishments as shall be perfectly adapted to each other. “An eye for an eye, and a tooth for a tooth,” seems plausible; but even if this principle be allowed, and would apply to this and a few other instances, yet there are a thousand other acts of violence where it could not be enforced.

The design of punishment, according to some reasoners is three fold—1st, to insure the rights and well being of society—2d, to recompense evil upon the person of the guilty—3d, to make him an example to deter others from being guilty also. These three motives, however, should be reduced to one—and, in fact, the other two it is presumed are meant to promote the first, viz. the peace and happiness of society. The idea of punishing a man for an example to others, is barbarous in the extreme—it is sacrificing a victim to strange gods, and may be classed with the offerings to Moloch, or the self-immolation of a Bramin’s wife. And the second reason is not less objection-



able than this last—for whatever is personal in punishment, or which in any way exceeds or varies from a strict and abstracted view to the safety of the public, is vindictive and cruel. The design, therefore, of punishment is, or ought to be, confined to this single idea, viz. to promote and insure the public good.

Some of the advocates of mercy have carried their principles so far as to be against capital punishment in any case whatever, and contend that man can have no rightful authority over the life of his fellow man. The universality of the practice, however, among all nations, as well as the sanction of holy writ, would seem to imply the propriety, at least, if not the necessity, of taking life for certain high offences—and there are crimes, murder for instance, which not only justify by way of equal retribution, but imperiously demand the taking away the life of the offender. But that this should be done for an example to deter others, is neither proper, just, nor will it be efficacious. As it regards the propriety or justice of such a measure, no further arguments than those above, will be urged against them at present—but, as great effect is usually expected from example operating upon the fears of men, I shall offer a few reasons, adding to them experience, which is worth a thousand, to shew that there are some mistaken notions entertained on this subject.

When we speak of examples in punishment, or of a person being punished as an example to others, the meaning is, I presume, that the punishment is to be public, that a crowd is to be brought together to behold the spectacle, in order that the sufferings of the guilty person may be seen, may be contemplated, and thus be made to impress the surrounding multitude with terror, and serve as a warning to deter them from practices, which will incur such punishment and such sufferings. But, after all, such exhibitions are very limited in their extent. If a person is to be hanged, not one in a thousand in the community sees the tragedy performed, and those who do, it is believed, have a variety of other sentiments to attend to, besides the idea of its being an example for them to profit by.

But punishment of a criminal is only the execution of the threatened penalty of the law, and whatever force, examples in punishment can have towards deterring men from violating the law, must arise from the idea that all such violations will certainly be punished. But all violations of law are not certainly punished, for they are not always detected, and frequently forgiven when they are; and whilst there is hope of escaping with impunity, present good, or present gratification, will always outweigh distant and uncertain danger. The threats, therefore, of the law, so far as it is believed that these threats will be enforced, must have equal tendency to deter, as the actual execution of them. All therefore which is imputed to the influence of example from public executions, may be referred to the fear of punishment, and that fear has already had its influence upon the minds of men from knowing the penalty of the law. In the play of *George Barnwell*, the leading the criminal off to execution, has all its serious and mournful effects which could be produced, was he actually suspended from the gibbet on the stage.

Ideas derived from quite different sources, are often associated and combined together in such a manner, that it is difficult to separate them, and appropriate each to its natural origin. Let us endeavour to look at this thing called "example in punishment," naked, stript of all other associations, and considered abstractly. Suppose there was no law, or general rule of conduct concerning murder—and suppose a person for once however, brought to the gallows for killing another; what would be the feelings excited upon such an occasion, and what effects would such a spectacle produce? Sympathy and compassion for the unhappy being who was suddenly to be launched into eternity, would undoubtedly, be among the first and most prevalent sentiments of the beholders—but would it have the most distant effect towards discouraging or preventing murder in future by others, if they were not threatened that this should be their fate, if they committed such an act. I think not. It is therefore the threatenings of the law, and the certainty, or the belief in

the certainty, that these threats will be executed upon the guilty, which has all the influence to operate on the fears of men, to deter them from crime. Examples may be kept out of sight. Moreover, all men know that crimes are to be punished, they are taught this from their infancy—and whether they ever see punishment inflicted or not, they are more or less restrained by this knowledge and belief, from violating the laws. Example can only increase such restraint, from a stronger impression perhaps, at the moment, of the certainty of such punishment. But such impressions soon wear off, especially when, upon a little reflection, they are perceived to be not well founded.

To bring experience in aid of my position, reference might be made to the practice for a century past, in Great-Britain, where public executions have been multiplied, and crimes have been found to multiply with them.\* But leaving this general reference to that country, for want of present documents to enable me to descend to particulars, let us look at our own, where recent occurrences will be found to be very apposite to, if not conclusive of our argument. Not long ago there was a robbery† of the mail near Baltimore; the robbers were apprehended and executed. It is believed, but I do not assert it as a certain fact, that this was the first instance in America of any person being executed for robbing the mail. A short time afterwards, the mail was again robbed in New-Jersey, and since that, we have heard of at least half a dozen mail robberies.

Phillips, was the first person who had been hung in Boston for murder for a number of years; but in little more than a year after this public and awful spectacle, five murders‡ at least, have been committed here and in the vicinity. Surely if there is any thing to be learnt from experience, these instances must teach us, how feeble and fleeting are the effects of punishment, considered merely as an example.

\* See note to the introduction.

† Hare and accomplices.

‡ Two of these were decided by a jury to be manslaughter; but such a decision could not have been foreseen by the perpetrators.

## CHAPTER III.

*Confinement best mode of punishing criminals; Duty of legislators to ordain humane laws; Society secure while the culprit is confined; Damage he might do if not.*

As all laws are enacted for the public good, or, as I endeavored to shew in the preceding chapter, the great end and object of punishment being to promote the peace and security of society, it would seem to follow that the first and principal inquiry should be, what sort of punishment is best adapted to such a purpose, and what treatment towards criminals, who have violated the law, is the most necessary and proper in order to prevent a repetition of their crimes? What punishment, will, taking into view all its consequences, bearings, and effects, produce the greatest security, to the life, liberty, and property of the citizens, in preventing the frequency of those crimes and misdemeanors, by which these rights and blessings are disturbed. Death, of course, stops the progress of every man, the wicked then cease from troubling. But no one will contend that so severe a penalty as death, should be annexed to every crime—the greatest advocates for severity, in their sober moments of dispassionate reflection, would annex it to few. Our humane laws make it the reward of very few.

Leaving, therefore, this great and final doom, to await those whose aggravated guilt may justify such a solemn and trying scene, and professing to be satisfied with the extent which the law at present prescribes to it, it becomes important to know, what mode of conduct must be adopted towards those lesser crimes, against which the law does not pronounce this awful sentence.

Although the idea of reforming a bad man, or reclaiming him from the ways of vice, and bringing him back to the paths and practice of virtue, may not be indulged to the extent which

some benevolent and pious minds are prone to carry it, yet it ought undoubtedly to enter into the views of the legislator in the formation of a penal code. It should be remembered, that whilst the guardians of the public safety, are engaged in favour of the rights of society, they have also a duty to perform for humanity, and towards those their unfortunate fellow men, who may become victims to a system which is to secure such rights. Whatever opportunity, mean, or inducement, therefore, which can, consistently with the public safety, be given to criminals for the purposes of repentance and amendment, seem not only proper, desirable, and benevolent, but is required of us as men and as Christians.

Now, the sentence of confinement includes the idea of giving to the criminal this opportunity and means of repentance, and, with such, contributes in a two fold degree, towards the great object of punishment, the peace and security of the public. For if a convict can be so reformed that he will not, or so effectually restrained by confinement, that he cannot injure his fellow-citizens, these primary objects are obtained. But by corporal, or sanguinary punishment, no man is reclaimed, and it is doubtful (as has been before shewn) whether the fear of any punishment, that may be uncertain, will produce any restraint upon the actions of wicked and unprincipled men. In the former mode of punishing by the whipping post or the stocks, there was surely no hope of reforming the culprit, and as he was immediately let loose upon the public, he then had another opportunity to indulge the same evil propensity to rob and steal, which impelled him to these acts before, and which is now increased perhaps by revenge. But confinement effectually prevents a culprit from doing any injury to society, during the time he is confined, and if he is of a notoriously depraved character, let his sentence be of long duration, and the community will enjoy great advantage from this security against his depredations.

Although there are many rogues who are so cunning and wary, as to elude the vigilance of the police, or the scrutiny of our public tribunals for a long while, yet they are always taken

at last, and, in process of time, all the most dangerous ones in the State, will be gradually collected into the place of confinement, and thus, society reap great advantages from such an establishment, in having these marauders taken out of it.

There are now about three hundred and forty\* convicts in the Massachusetts State Prison—whilst there, they can do no harm—on the contrary, they do much good—they labour for the community which supports them—but they would be a fearful addition to society, were they turned out upon it to get a support there—and any other punishment (except death) turns them over oftener, and leaves them longer to subsist by their depredations on the public. Let us consider the case of a man confined for five years—during these five years he steals nothing—none is robbed by him—as far as it respects this individual, the public tranquility is not disturbed—he probably earns his subsistence, and no man is injured by him. He is out of sight—his afflictions, if he has any, are his own, without being participated by the public—whatever punishment he may suffer in his confinement, falls upon himself alone—society is not made to suffer with him, by his being dragged before it, harrowing up the feelings of honest and sympathizing hearts, by seeing him tormented before them. How different would it probably be, were the whipping post and pillory still in use, instead of confinement. In the course of the five years, he would most likely be whipped five times, and in the interim between these several scourgings, (taking no account of the barbarous effect of such disgusting scenes,) commit twice the number of thefts. What might be the amount of the damage of these robberies, it is impossible to calculate; but as every body knows that thieves and robbers usually destroy, for fear of detection, or by extravagance and improvidence, ten times as much value as they realize, or as would be necessary for their support, it may be allowed that some thousands of dollars would be the tax levied on the community by this sort of land privateering. It is true, this tax

\* April, 1820.

would fall on individuals, without being a direct public charge; but it might be even a greater evil than if it were a public loss. All this then, is saved by confinement to labour, instead of whipping and scourging; and if there were no other arguments in favour of this milder species of punishment, surely such advantages ought to give it a decided preference among a politic, as well as among a humane people.

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#### CHAPTER IV.

*Objections to the Penitentiary System answered; Law of February, 1818; Confinement no slight evil; Certainty of punishment alone can overcome temptation; reasons why the labour of convicts is not more productive; Produces something.*

CONFINEMENT, in a situation affording moral instruction, and imposing labor by which habits of industry may be formed, may encourage some reasonable hope of reclaiming a guilty man, if not yet hardened in iniquity; and it is certainly the best security to society against his depredations, during the period of such confinement. The longer his sentence may be, the greater will be the advantage derived from it in both these points of view. It would be well, therefore, for our Legislature to consider, whether it might not be proper, to make the punishment annexed to what are called the lesser crimes, a longer period of confinement than is now denounced against them.

The law of February, 1818, providing for an additional sentence against such as have been before punished by confinement to labour, was an excellent addition to our penal code, and it is unfortunate, as I shall have occasion more particularly to shew hereafter, that its effects are, in some measure, evaded by the operation of another and a later law, which provides for

sentencing some convicts to the County Jails, instead of the State Prison.

But it is supposed, by some, that confinement is a species of punishment not sufficiently severe, that it has no terrors, that the consideration of its mildness encourages men to brave or hazard it, and that crimes multiply in a community, in proportion as punishments are less terrible and vindictive. But there is reason to suspect that these are altogether mistaken ideas. Confinement is no slight evil. How often are we told, when our liberties are unlawfully assailed, that freedom is better than life; that life without liberty is a burden; that death is preferable to slavery, &c.? And such language is not altogether the effusions of patriotism, or the high-wrought sentiments of men of honour only—it is grounded in the principles of our nature, and the feelings of all men are responsive to it.

Take a man from the midst of society, whilst he is in the full enjoyment of the pleasures of social intercourse, in the exercise of all the privileges of a freeman, and with a high sense of the prerogative of speaking and acting like a freeman—take him away from these enjoyments, and confine him in the narrow limits of a prison; is this no punishment? Has the contemplation of such a change no terrors? Look at him, debased from the exalted rank of a free citizen, to the miserable state of the most abject slave, having no will of his own, trembling before his fellow-man, and afraid to ask even for the most pitiful favour; all the powers of his body, and every faculty of his mind, bending to the imperious requirements of a task-master. See him here, when he is told that every comfort he may receive, and even exemption from severe punishment, must be purchased by the most abject submission, perfect obedience, and humble resignation to the word and will of his keeper. All this he deserves we allow—but is this a light chastisement? Add, also, to the picture, the sufferings of his friends. He has a wife well-beloved, children dear to him, (many such there are in the State Prison,) parents whom he venerates, although he has disobeyed them. All these are in anguish at his situation, and



some of them suffering want, by failure of his assistance, and he knows it. Think ye he feels no bitter reflections from thoughts on these friends and dependants? Or that it is no punishment to be thus separated, and thus treated? Let the insurrection of 1816 answer us—when, with the aid of a single ladder, the convicts rushed over the prison walls, in the face and fire of armed men, where apparently, almost certain death was hazarded, for the feeble prospect of escape from this thralldom.

But it may be said that the greater part of criminals have none of these nice feelings, that they have lost, or never possessed that sense of shame and feeling of dignity, which would create distress and sufferings in such a situation. To this let me answer, that men of this stamp would be deterred by no punishment; not having a sufficient degree of moral sense, or good judgment to keep them honest from principle or policy, they would soon have their fears overcome by strong temptation and a natural propensity to do evil. It is not a calculation or reasoning upon the sort of punishment which may be inflicted, but the hope and expectation of no punishment at all, of not being detected, together with strong tempting, and present gratification, which actuates and encourages the guilty mind, at the moment of a criminal act; was the sword of justice pointed continually at his breast—could he see the arm of the law suspended over him with a certainty of its striking the moment he should transgress, it is probable the most wicked and depraved would be deterred. No man would pull down a tower on his own head, however great his desire might be for the plunder to be afforded by its fall. If this reasoning is correct, (and I believe that an impartial inquiry into human nature, and the principles by which men are governed, will confirm it,) it will follow, that whatever punishment may be threatened, if there is a possibility of escaping it, it will produce no great restraint upon the actions of vicious and daring men. It will also follow, as has been before shewn, that any successful means of reforming bad men, or any restraint upon their liberty, the enjoyment and exercise of which gives them power and opportunity

to injure society, will afford to that society, the best security against a further or too frequent violation of its laws.

Another objection to the Institution of the State Prison, is, that it is expensive, and a third, that it has no tendency to reform criminals, but on the contrary, is a school for vice, and only makes them worse.

I am inclined to think that these two charges have grown out of erroneous calculations at the outset. Men expected too much from the operation of this new and untried system, and therefore are disappointed. Whoever imagined, that all the rogues and vagabonds in the community could be collected together, clothed, and fed,<sup>e</sup> and governed, and guarded, without expense to the State, must have had very imperfect notions on the subject. The following extract from "A Description and Historical Sketch of the Massachusetts State Prison, published by order of the Board of Directors, in 1816," contains some remarks to this purpose.

"Various causes combine," say the Directors, "to make it impossible that such expectations should be realized. Were the expenses of subsistence and clothing only, brought into the account, the proceeds of their labour might, perhaps, nearly balance it. But the other charges for the support of the institution, and incident to it, more than double these items. Such are pay and support of the officers, guards, and overseers, wood, oil, bedding, &c.—care, attendance, and medicine, for the sick—transportation of convicts from various and distant counties in the State—additions to, and alterations and repair of the buildings—loss and damage of stock, tools, and manufactures, by malicious and revengeful convicts, &c.

"Many of the convicts also, are unfit for labour of any kind when they come into prison. Enervated by intemperance, and with constitutions worn out by debauchery, their sickly frames are a long while an expense to the Institution, before they gain strength to add any thing by way of labour, to its income. And often, the term of their sentence is only sufficient, with the expense of hospital attendance, to restore them to liberty and so-

society in better health than they were committed to prison. Some are useless for want of natural, and some for want acquired talents—they have no faculty, or they have been brought up idle—and it would be too expensive to teach them a trade, even if they were capable of learning one, which would only begin to be profitable at the moment of leaving the prison. Of those who are sentenced for short periods, a few only who have been bred to such trades as are carried on in the prison, can be very useful—for those who are not mechanics, before they can acquire such a facility at any new labour, as to be profitable, their time expires, and they are discharged. There are many also, whose knowledge in their particular calling might be valuable elsewhere, and yet useless in this place. A good farmer, a good sailor, tanner, rigger, miller, or the like, would be good for nothing here.”

But it appears by the printed statements of the State Prison concerns for the last two years, that the earnings of the convicts, or the proceeds of their labour realized, has been about 50,000 dollars each year. Now this sum ought to be considered as clear gain to the State—for it is quite doubtful if these convicts would have earned a cent had they been at large, and probably would have been twice as much damage to society as the amount of all the expenses of the Prison establishment.

And as it respects the subject of reformation, the fault of expecting too much was equally applicable to this—for he who believes that all bad men may be reclaimed, is as much in error, as he who supposes that none can ever be so. It is certainly very difficult to reform wicked men; and almost hopeless to undertake, by the best adapted means, to correct vicious habits, or to amend tempers, dispositions and propensities, naturally disposed to evil, or depraved by habitual practices of vice and corruption—yet it is a fact, well ascertained, that there are many, who have formerly been in our State Prison, now living peaceably and reputably at home, and earning an honest living in society, by the exercise of talents, and habits of industry, acquired in the Prison. It appears also, by the records of this Prison,

that the whole number of convicts received into it since its establishment, is about fourteen hundred. Of this number about one hundred and twenty have been sent there a second or third time. The proportion of those, from this datum, therefore, who, after leaving the prison, pursue their old bad practices and are punished again, is about one to twelve. But some are again taken and confined in the Prisons of other States—and some go off to foreign countries—so that it may be enough to say, that one to ten, or one to eight, of all that are left in the State, come back to the Prison a second or third time. But where are the other seven? If we say they have become honest and peaceable men, surely this would be speaking not a little in favour of punishment by confinement and Prison discipline; and if they had not become such, or their behaviour had been otherwise than peaceable and honest, they would have been returned to this discipline again.

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## CHAPTER V.

*Classification and mode of confinement; Should not be always solitary; Bentham's Panopticon; Our Prisons not calculated for classing; Separate Prison for females; Law to sentence convicts to county jails; Has not the intended effect.*

It has generally been recommended by writers upon Penitentiary Establishments, that every convict should be kept alone, and totally excluded from all communication with his fellows, or with any human being whatever; and it is supposed that this sort of solitary confinement would have the greatest effect towards, and afford the best prospect of amendment and reformation. I am rather inclined to favour this idea—but it should be admitted with some limitations and exceptions. We have it from the highest authority, that “evil communications corrupt good manners”—but the communication even between con-

victs is not always evil—they have been known to pray in their rooms with each other, and to form associations for religious purposes—and it is not altogether unreasonable to suppose, that examples and practices of this kind should have their influence, as well as wicked ones. Man was made for society, and although some men, for pious purposes, have withdrawn themselves from the world—and to avoid the corruptions which abound in it, have shut themselves up in monasteries or caves, yet it is not allowed that the cause of religion and virtue is promoted by such retirement. Solitude may bring a man to reflect upon past conduct, and thus he may be brought to see the error of his ways; he will, also, while alone be free from the danger of farther corruption, to which he would be exposed by an intercourse with those more corrupt than himself—but would he have any motives or encouragement to good behaviour? He might, from the severity of this solitary punishment, and from the undisturbed opportunity of reflecting on the evil of sin and violence, form good resolutions in regard to his future conduct; but what faith may be placed in resolutions, (let them, when made, be perfectly sincere,) formed in the bosom of solitude, against the temptations of the world when that solitude is at an end? It requires but a slight knowledge of the human heart to answer this question. St. Paul has answered it—"when I would do good evil is present with me," says this learned apostle. Besides, a man, if ever again destined for society, should not, by any punishment, be disqualified for enjoyment and usefulness in it. But a long confinement in total solitude, might destroy his social feelings, and produce a sort of stupid apathy, which would render him very unfit for an useful or happy member of any society. There is one other objection to the keeping a convict entirely alone, during the day time at least, and that is, as it regards labour; and this objection will apply both to its moral effect, and to the pecuniary interests of the institution where he may be confined.

It will very readily be granted that one man alone can never work to so much advantage, as when there are a number together.

Smith, on the Wealth of Nations, has very satisfactorily and entertainingly explained and illustrated this subject. And, with regard to what of morality enters into it, I would observe, that a man works much more cheerfully when in company than when alone; when he sees all around him at work, it encourages him to be active from example, and a sort of feeling of sympathy: he becomes industrious; and to encourage and beget habits of industry, is certainly one of the best expedients for promoting good morals.

I confess I cannot see how three or four hundred men can be kept at work in total solitude; or, if they can, what sort of work could be carried on under such disadvantages, which should be profitable. Mr. Bentham, to be sure, has given us a *Panopticon*, and in the construction of which he has shewn a great deal of fancy and imagination; but imaginary buildings will not do to keep convicts in; we must have something more than castles in the air. There are innumerable objections, I think, to his plan, but as I have not his book at hand to apply these objections, nor time, in fact, to specify them, I can only now observe that I do not think it can ever be carried into execution to any good purpose, unless it be upon a very small scale. Some of Mr. Bentham's notions, however, about the treatment of criminals I perfectly agree with; they should be well clothed, well fed, and treated humanely; they should be encouraged to labour by some small reward, but in no case whatever, should any portion of such reward, or over-earnings by their labour, be given them in money within the prison.

With respect to CLASSIFICATION, there can be no doubt that it might be made to produce the best effects, and that some mode or method for this purpose, ought to be adopted in every Penitentiary or State Prison. To avail, however, of all the advantages which might be hoped for from a perfect system of this nature, most, if not all, these establishments in the United States, would require some material additions and alterations. In some of the various ways of classing, we should make natural distinctions our guide. Thus a total, and effectual, and

complete separation should be made of the sexes. In the Massachusetts State Prison, as also in every other institution of this kind, there are some women; but (to the no small honour and praise of the sex be it spoken) there are but very few; in the Prison at Charlestown, only twelve,\* to three hundred and twenty five males. They are kept as much separated and concealed from the male convicts, as the accommodations of the establishment will admit—but with all the precautions of the government to prevent it, and all the vigilance of the overseers and guards, there is constantly an intercourse by letters between them; and a continual interchange of looks and signs, and love tokens and love pledges. It has, till lately, been the practice to take the females into the Chapel on Sundays, to attend divine service with the men; always, however, specially guarded and accompanied by the officers both in and out of the chapel; and this was the only occasion upon which they were admitted into the presence of the men; yet it has lately been found necessary, to put a stop to this. So many intrigues, and so much passing of letters was practised from this slight opportunity of going in and out of the chapel, notwithstanding the eyes of the guards were upon them, that it has been thought expedient to discontinue the practice of the females appearing there. In a perfect system, therefore, of classing convicts, females should form a class so entirely distinct and separate from males, as that they might never see each other. Nature is the parent of us all, and she made her sons and daughters for the comfort and enjoyment of each other; it is one of the greatest punishments to keep them apart, and when the attempt is made, our common mother seems to aid and encourage our plans to render this attempt vain. But in proportion as our natural inclinations are strong and ungovernable, so, when it becomes necessary for the good of society or of the individual, to restrain and suppress these desires, our means used for this end must be strong and overpowering. Every thing that has a tendency to stir up these na-

\* At present, only nine.

tural feelings, should be guarded against and kept out of sight. "Lead us not into temptation," extends to and includes the preventing all temptation which might assail us. I am of opinion, that female convicts should, instead of being kept in a separate department of a common prison, be confined in a separate prison altogether, and solely appropriated for females; that they should have female overseers, and that the whole establishment should be conducted by ladies, as Mr. Gurney suggests. The soft and sympathizing attendance of their own sex, would go far towards reforming them. They would, also, in this way, be easily governed; but where there is a man in sight they are unmanageable.

It has already been shown that the project of keeping every convict by himself, and in total solitude, is, in a manner impracticable, at least where there are a large number to be managed; and where it can be done, an establishment upon such a plan must be exceedingly expensive, without the hope of any adequate advantage to balance such expense. But as it is not denied, that evil example may have a corrupt influence upon young minds especially, and upon characters not deeply involved in scenes of wickedness, it is certainly the duty of the government to take all such measures as may be most advisable and effectual, to separate the notoriously guilty and depraved, from those who are comparatively innocent and not yet hardened in vice.

As much of this is done in the Massachusetts State Prison, as the accommodations of the Prison will allow; but it is very much to be desired that some addition should be made to this establishment, which might further this object in a greater degree.

The danger of a general and indiscriminate intercourse among convicts, and the inconsistency, on a penitentiary plan, of associating together in the same apartment very different degrees of vice and wickedness, has not escaped the attention of our government. The subject was recommended to the consideration of the Legislature, and a law has been passed with a view to correct this evil; but which unfortu-



nately, it is believed, will have no such tendency. The law provides, that when any person is convicted of a crime which may subject him to a sentence to confinement for a time less than three years, the court shall, at their discretion, order him to be confined in the county jail instead of the State Prison. The object of this law being to keep lesser criminals in the county jails, that they might not mix with greater ones in the State Establishment, the law necessarily supposes, that the degree of guiltiness or depravity of any character, is denoted or marked by the tenor of his last crime; or, which amounts to the same thing, by the length of time for which he may be sentenced to be confined. But this measure for depravity is deceptive. A man may be sentenced for a petty theft, who has been sentenced several times before for larger ones, or more heinous crimes. He may be a hardened and depraved villain, and yet the court know nothing more of him, than that he has committed a crime for which he is sentenced to only one year's confinement; and therefore, he is liable to continue this term in the county jail, where his power and influence in corrupting his associates, may be, perhaps, greater than it would be in the State Prison. On the other hand, there are many who are sentenced for much longer periods, and not a few for life, who are not abandoned characters, but who may be considered as the most hopeful subjects for repentance and reformation. Besides, in our State Prisons, there are means and motives provided to induce men to forsake their vices, and for teaching them the necessity and the way of repentance. But are there any such advantages in the County Jail? Are not criminals confined in these places, allowed indulgencies in their depraved appetites and inclinations, which foster and cherish their vices, and which the salutary regulations of the State Prison debar them from? I know in many instances it is a fact, that when criminals are taken from the County Jails to be removed to the State Prison, they are in a shameful state of intoxication, filth, and corruption. The County Jails in England, are a subject of great complaint, and the recent inspection of them, has developed scenes of

lewdness, riot, intemperance, profanity, & gaming, together with filth and wretchedness, to a degree both disgusting and distressing to the most insensible feelings. As the County Jails in our country, are much on the same plan as in England, it is to be feared that they are not in a much better condition. They have no yard room, or airing ground, so that a prisoner is of necessity, kept constantly confined to his room, which must be a great obstacle to cleanliness and the preservation of health. They have no accommodations for employing the convicts at labour, and every one knows that labour, besides the pecuniary profit which it produces, is the best means for promoting health and good morals. Industry is the nurse of virtue, and the enemy of vice, and to overcome habits of idleness, and beget a custom and taste for labour, would be the most acceptable offering which could be laid on the altars of religion and morality. As the accused are always confined in the County Jails before trial, it follows that all who finally come into the State Prison, first pass through these Jails; and, as they frequently remain here several months, the evil of improper and dangerous intercourse between the different classes of prisoners, will exist here, as well as in the State Prison; and thus the benevolent intentions of the law in question be frustrated.

One other effect of this law may be mentioned, and which was alluded to in a former chapter. The excellent statute of February, 1818, is in some measure evaded by it. This statute was constructed upon the very obvious and equitable principle, that a second and third offence ought to be punished with more severity than the first. It provides, "That whenever any person who shall be convicted of any crime, before any court competent to try the same, the punishment, whereof shall, by law, be confinement to hard labour for any term of years, shall have been before sentenced to a like punishment by any court of this, or any other of the United States, he shall be sentenced to solitary imprisonment not exceeding thirty days, and confinement to hard labour not exceeding seven years, in addition to the punishment prescribed by law for that particular offence for

which he shall then be tried; and in case such convict shall have been before twice convicted and sentenced as aforesaid, he shall be punished by confinement to hard labour during life." Now if every convict is sent to the State Prison, it is there immediately known if he is an old offender or not, and whether or no he is obnoxious to this law, and therefore, if he is guilty he will not escape his deserts. But it may happen, and it has already happened in several instances, that persons who have heretofore been convicts in our State Prison, have again been tried, and sentenced to the County Jails, the Court not knowing or having any suspicion of their former conviction; and thus the intentions of a law, which has the very best tendency to lessen the increase of crimes, is counteracted or evaded.

The punishment of the State Prison is mild and salutary; it was originally intended to reform and reclaim men; but if they will not be reformed, nor reclaimed, nor warned, by feeling the merciful corrections of the law once, it is most reasonable that they should feel its chastisements a second time with more severity. And after a second and more serious warning, if the culprit is again taken in like practices of vice and iniquity, there is great presumption that he is incorrigible; and the peace and security of society seem to demand, that he should be cut off from it forever.

One reason given, I have understood, for the law allowing convicts to be sentenced to confinement to labour in the County Jails, was, that the State Prison was already too crowded, and therefore it was necessary to adopt some measures for the decrease of its numbers. But would it not be better to enlarge this establishment? The expense of such an addition or enlargement, and which addition would, moreover, afford great opportunity for the more effectually classing and separating the convicts, would not much exceed that of erecting a new building suitable for the purposes of the present law in one county; and a new one will be wanted in almost every county if this law is not repealed. Should this law, therefore, continue, the Counties will be driven to the

expense of erecting such new buildings, or at least of making preparations and accommodations for employing the convicts at labour; but, even when that is done, and some profit is derived from their labour, still it will be found, that the final expense of maintaining a convict in these Jails, will be more than double what it is in the State Prison, and no advantage gained in point of moral improvement.

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## CHAPTER VI.

*Further observations on classification; Officers of the Prison best qualified to judge of the characters of the convicts; Other buildings wanted; Classing by act of 1818 had a good effect; Dialogue on State Prisons; Remarks in N. American Review.*

So much time having been taken up in the last chapter, by the observations on the late laws of this Commonwealth, relative to the sentencing and treatment of convicts, that the subject of Classification was left unfinished; I may, therefore, be permitted to return to this subject again.

The nature and design of the Massachusetts State Prison, is such as to render the arrangement of the prisoners into classes, a very simple operation; but its accommodations are not sufficient for so complete a separation of these classes from each other, as is necessary to give the establishment the best means and opportunity for producing its highest moral effect.

There are no untried prisoners, no debtors, no vagrants, or the like. All those confined here are convicts. They have been tried and convicted, and sentenced to confinement to hard labour. With the exception of the females, therefore, who, I have before ventured to give an opinion, ought to be kept in a prison expressly established for the purpose, there need be but two classes formed, which it would be necessary

to keep separated from each other. Those, young or old, who are instinctively, if I may so express it, and habitually corrupt and vicious, and those who are not so. And it would seem, that the separation and distinction of these two classes, ought to be left entirely to the immediate government of the Prison. No other can be supposed to know these men so well as one who may, perhaps, have had them under his care two or three, or more times, whose duty it is to be constantly among them, and who sees them in all the various shapes which their various tempers and dispositions, and the secret workings of their minds are wont to exhibit them. It would certainly be no impeachment of the talent, foresight, or discernment of the Court, to suppose that they might not be able to know the true character of every man brought before them. It is not expected that the judge on the bench has any acquaintance with the prisoner at the bar. He knows the accused only by the witness in the case. The criminal may be convicted of a high crime, but it may be his first; or he may be found guilty of a smaller offence, and yet have been an old and heinous offender. In the first case, he may be sincerely sorry for his faults, ready to amend them, and a fair subject for the reforming discipline of a penitentiary. In the second, he may be a hardened villain, dead to all virtuous and honest principles and feelings; not at all disposed to avail of, and no desire to profit by, any advantage of moral and religious instruction; totally corrupt himself, and ready and willing to corrupt others, and fit only for the severity and iron chastisement of the law. To know these several traits of character, however, requires more study than the Judge, in his official duties, can give to the subject. But let them be sent to the State Prison, if neither of them are known from a former commitment, their different characters will soon be developed. A continual attention to these men, and a watchful regard to their conduct and behaviour, will, in a short time, enable the overseer to discover their several degrees of guiltiness; whether they had feelings of contrition, and were capable of being

reformed, or their vicious principles and inclinations were fixed and irremovable; and he could then place them where they could receive the most good, or do the least evil.

It is not thought prudent, perhaps, to leave so important a concern as the separation of the convicts, to the discretion of the officers of the Prison. By the following extract from Buxton's "Inquiry," it will be seen that such discretion is allowed to be exercised in the best regulated Prisons in England.

*"Bury Jail and House of Correction.*—There is a separate building and yard for prisoners of the following descriptions: No. 1 and 2, debtors; No. 3, King's evidences; 4, convict of misdemeanour; 5, transports and convict of notorious felonies; 6, untried for atrocious felonies; 7, untried for smaller offences. There is a well merited discretion given to the governor, (meaning the jailor who is so styled,) to alter these rules in the following manner. A notorious thief who has before been imprisoned, may be apprehended for a petty offence; to place him among petty offenders, is to subject them to corruption. He is, therefore, confined with the untried for atrocious offences. On the other hand, a youth of respectable habits, evidently unhardened in guilt, may be charged with an atrocious offence; he is placed among the untried for smaller offences."

If the limits of the Massachusetts State Prison were to be extended, and another building erected and attached to the present institution, but so separated from the other by walls and yard room, as to prevent all intercourse between the inmates of each, either by sight or hearing; such a separation of the only two classes we have supposed necessary to be formed here, might be made, as would promote, in a higher degree, the great moral object of a Penitentiary system, than can be expected from confinement, either in the present establishment or in the county jails. Such an arrangement would also be attended with far less expense, than will be the necessary additions to, and alterations in, the county prisons; and

the cost of supporting the convicts, as has been before observed, in the former mode and place, would not be half so much as in the latter.

The method of classing the convicts as provided in the Act of the Legislature of February, 1818, has had all the good effects which could be expected from so limited a system. This law directs that the convicts be arranged and divided into three classes, "as they shall be distinguished by their behaviour and merit in regard to cleanliness, sobriety, submission, respectful deportment towards their officers, and industry and faithfulness in their work. The first class shall consist of those who are the most orderly and meritorious, and shall be dressed in cloth of the quality now used, but of one colour only—and they shall be placed in the most comfortable lodging-rooms at night, and allowed the use of lights at such time during the evening, as the Directors may think proper. In the dress of the second class, the trowsers only shall be of different colours, and they shall be allowed lights not more than one evening in a week, at the discretion of the Directors. The dress of the third class shall be that now in use, and they shall not be allowed any lights at night."

This regulation was immediately put in force, and has been practised upon with good effect. And this is, in fact, all the arrangement that can be made towards classification or in aid of such a system, which the present state of the buildings of the Institution is calculated to afford. It is believed, however, that care has always been taken, to keep as far from each other as possible, those who are dangerously wicked, and those whose moral sensibility still gives them a claim to tenderness, and inspires the hope of repentance and a future good life. It is also generally known, that the officers of the State Prison have not neglected so important a duty, as that of attending to the moral and religious instruction of the youth who have been there confined. And the charge or belief, that this Prison is such a sink of corruption, that every lad who goes in

there only a beginner in vice, comes out an adept in wickedness, is groundless, and has neither facts nor experience to justify it.

Since commencing this work, the writer has seen a new publication, from the press of Messrs. Newell & Phelps, entitled "A Dialogue on the Penitentiary System." The author of this work, seems to take great delight in representing the Massachusetts State Prison, as the very sink and centre of wickedness, a volcano of corruption, a school for rogues, and a seminary of vice, where degrees are taken for the gallows, and the like. Now this may be wit—and the author, I presume, meant to be witty; but whether it is wit of the highest rank or not, I leave to men of taste to decide. If, however, there is any thing of truth in these witty allusions, they are serious charges against the Supreme Executive, and the Judges of the Supreme Judicial Court, who are together, by law, constituted a Board of Visitors to the State Prison, and whose duty, of course, is to inspect and watch over it; and I can see no excuse for their continuing the immediate government of so important an institution in the hands of persons capable of so gross an abuse of their trust; nor can I conceive that such a total perversion of all the great objects and designs of the Institution, should escape the observation and attention of this most respectable and highly dignified Board.

I have also lately seen an article in the *North American Review*, upon "Punishment of Crimes." This writer has treated his subject with more seriousness and dignity; and I am glad to find, that his sentiments are not much at variance from those which have so far been expressed in the preceding pages; particularly as it regards a preference for State Prison Punishment over that of the County Jails.



## CHAPTER VII.

*Of governing the Prison and treatment of convicts; Different opinions on this subject; Complaint of the expense; Much depends on the principal officer; What is required of him; Gurney's visiting committee disapproved of; Reasonableness of requiring labour.*

SOMETHING has already been said in the foregoing pages, upon the nature, design, and necessity of punishment, and I had proposed to superadd further opinions thereon; but having seen this subject so well handled by the writer in the North American Review, it becomes unnecessary to say more; and vain to attempt to say any thing better on this head. I cannot, however, refrain from again observing, and I feel a pride in making the remark, that this writer, abating the superior elegance of his style, force of reasoning, and lucid manner in which he has arranged and presented his thoughts to the public, has discovered sentiments nearly in unison with those given in this work.

Leaving, then, to the determination of the law, the sort of punishment to be inflicted, I shall, at present, treat of that which consigns the criminal to the State Prison; and taking him up within the walls of this place of confinement, shall inquire, and endeavour to point out, what kind of treatment he ought to receive here; how he is to be managed and governed, in order that the design of this system, and this species of punishment as it regards the safety of the institution, the future behaviour and well-being of the convict, and the benefits which are expected to result to society from it, may have their fullest and most satisfactory accomplishment. There are some men who think nothing but rigor will do; whilst others are always on the side of mercy. Those who are advocates for severity in the laws, not content with the sentence of mere con-

finement, and the banishing a man from his friends and the world, usually follow the victim to the prison-house, and there, with their rigid principles of justice, as they would term it, demand, that whilst a prisoner, he should have no compassion shown him; that he should receive none of those little favours, kindnesses, or charities which might tend to sweeten life, and throw a ray of joy and cheerfulness into his sad and gloomy cell. That he should hear of nothing but chains and chastisement, lest terror sleep in his bosom, and hope should be awakened. On the other hand, the heart of the benevolent man and philanthropist is full of compassion and sympathy for the sufferings of his fellow being, though guilty and condemned; and he is ready and urgent to visit him in his dark and forlorn abode, to soothe his sorrows, and wipe the tear of anguish from his eye.

The writers upon Penitentiaries are almost invariably of this latter description, but they may be considered as the parents of these institutions; and they delight to nurture them with the affection and tenderness of parents. It is otherwise, however, with the mass of mankind. The world is selfish, and you may look in vain for sympathy, where interest is opposed to the feeling. If the Penitentiary system was profitable, there would be no great difficulty in finding for it a multitude of advocates. But so long as it is an expense to the Commonwealth, our State Prison will be branded as a nursery of thieves, and a college for the education of rogues and villains. Hence, also, originates the complaint that convicts are too well treated, and the notion that nothing but severity, starvation, and frequent chastisement, will correct their vicious habits, or deter them from future crimes.

Without going all lengths with Mr. Roscoe, Mr. Gurney, or Mr. Lowndes, in their mild, gentle, and forbearing conduct towards convicts; or subscribing to all their rules for conducting a State Prison or Penitentiary Establishment; or giving full faith to the results pretended to have followed such rules; I most readily agree with these gentlemen, that mildness and gentleness, a kind and friendly deportment, and a conciliatory

temper towards these unhappy, though guilty men, should be the first and most influential principles, with those who are entrusted with the management of them. And it will be seen by a reference to the by-laws of the Massachusetts State Prison, which have been published and circulated, that such has been the treatment enjoined, and most strictly enjoined by the government of it, from its earliest establishment. But this tenderness and kind treatment must also be used with discretion, and with a steady hand; and in this regard, very much will, and always must, depend upon the character and talent for commanding respect, in the chief officer of the Prison. I am inclined to think, that one cause of these establishments not having succeeded better, is the manner in which the government of them has generally been organized. The whole and exclusive conducting these Prisons, and the management of all persons therein confined, has been usually, and I believe invariably, vested in a Board of Inspectors or Directors. In the Establishment in this State, this Board consists of three gentlemen; in the other States, of seven, or nine, or more. In most of the States, these gentlemen serve gratis; and in this State their emolument is so small, that it is not expected they can devote much time to the concerns of the Prison. The duty of managing the convicts, therefore, and enforcing the rules and orders for the government of the Prison, falls as it ought, on the chief executive officer; but he being under the control, not only of the governing Board, but of each individual member of it, his authority is greatly weakened, if not destroyed; and the convicts are always knowing enough, to contrive all means that it should be so. If the keeper, warden, agent, or by whatever title this chief officer is known, sees fit to punish a convict, the inspector may come in and release him. A convict may want a handsomer jacket, or a pair of new shoes; the keeper thinks the old jacket and shoes good enough, and therefore denies him. The next day he applies to some one of the gentlemen inspectors, and having taken care to throw away his old shoes, appears barefoot; the gentleman takes pity on him, and orders him a

pair of new shoes. Another wants to send a letter out to his friends, or permission to receive one in; but he has misbehaved, and the keeper will not permit it; he goes with a plausible story to the inspector, who, seeing no fault in the letter, and willing to oblige a prisoner, takes it, and conveys it away himself. Thus the keeper is laughed at by the convict, his orders despised, and there is a general triumph among the prisoners, that they can out-wit the government yet.

I have said, and I must repeat it, that every thing in regard to the success of this Institution, and the Penitentiary System in general, will, and must depend upon the man who may hold the chief executive office over it. Great discretion should be used in the appointment of this officer; and such an one should be selected, whose respectability of character, integrity, and talents, would justify the giving him powers, which might not be controlled by any other individual. Government has ever been careful to appoint gentlemen of such characters for directors, presuming that under their governance, less accomplishments & abilities might be required in an inferior officer. But when the extensive and daily duties of this officer, and the relation in which he continually stands at the Prison is considered, it would appear that he ought to possess as high qualifications, as is thought necessary in an individual director; and so far as it regards resolution, firmness, skill in commanding and governing men, and managing the internal concerns of a Penitentiary, they are even more requisite in him, than in any other person whatever. He is a man in authority, and the convicts should be taught to believe him the highest authority. His whole mode of conducting himself before them, and ruling over them, should be calculated to impress them with the highest sense of the respectability and dignity of his character, and nothing should be done by others to lessen it. When this character is established, his humane and tender feelings, his sympathy for their sufferings, and his desire to soothe and alleviate them, may be brought in aid, and to second and support his authority and influence over them. He must first make himself feared, and then he may

make himself beloved. But without this talent for command, which ought to be acquired in no transient or trifling service, his humanity would only serve to make him the dupe of cunning knaves, and his tender feelings be of no longer consideration among them, when not used to obtain their pardon. He should be a man of strict morals, and religious principles; and these traits should be evidently seen and known, without being proclaimed; they should arise out of his daily intercourse with the convicts, and be manifest in every thing he does. He should take great pains to know the peculiarities of every character under his care, in order to adapt his treatment to these peculiarities; for as dispositions and temperaments differ, no general rules, will, every where, produce the same effect. Some must be punished for every offence, whilst there are others, with whom forgiveness and a gentle admonition, would be more effectual. But when punishment is necessary, it should be prompt and decisive. There must be no hesitation. Here none are innocent; therefore the maxim of the law, which lets ten guilty escape rather than that one innocent might suffer, should be reversed in his mode of government. He must be bold and fearless among them; but neither must his courage and boldness be evinced by noise and threatenings; it must be gathered from the resolution, firmness, and decided tone which should mark every step in his conduct; in scenes of turbulence or quietude; in punishing or rewarding; in granting favours or withholding them. His power and authority should be absolute; but he should know how to use this power and authority. He should take care upon the first commitment of a prisoner, to make him understand the nature and design of the institution; to impress upon his mind, as well the benevolent, as the corrective intentions of it; and by representing to him the degraded and humiliating situation, to which his vices have brought him, prepare him both for repentance, and that submissive and slavish obedience, which will be necessarily and justly required of him. He ought to be deeply versed in the knowledge of human nature—for it will be necessary for him not only

to know the peculiarities in the character of the several convicts, but to be able to penetrate their hearts, and to learn even their most secret thoughts. He should also be a man of general knowledge—a man of economy—acquainted with accounts—worthy of trust, and capable of conducting the various concerns in trade and contracts, which are always to be performed for an establishment of this kind. If any one should here object, the difficulty of finding these varied talents together, I can only say, let great discretion and judgment be used in the selection and appointment of the officer; and, as in all other cases of human affairs, if you cannot reach perfection, come as near it as you can.

Mr. Gurney has suggested a favourite plan of Visiting Committees, for the better order and government of a Prison; and for the proper treatment and instruction of convicts, in promoting their reformation. This gentleman visited a great number of Jails and County Prisons in England and Scotland, and from observing the misery and bad management in these wretched abodes of filth and corruption, he thinks himself qualified to draw up rules and regulations, for the complete and perfect government of a Penitentiary, or Prison for convicts. But a little practical experience in such institutions, or a larger acquaintance with the nature of men and the variety of human character, would have made him less confident of success in the method he recommends.

“I venture to give my opinion,” says he, “that a few individuals of a benevolent and religious character, should be permitted, in the neighbourhood of a prison, to form themselves into an association for the purpose of visiting it. Their office, when once undertaken, will be found of great importance. They will take their turns to visit the prison daily; they will read the scriptures with the prisoners; they will instruct the ignorant, and find employment for the idle. By the magic force of Christian kindness, they will obtain a powerful influence over the objects of their care,” &c.

There could not be a worse system proposed. These visiting gentlemen would only serve to interrupt the employments of the prisoners, to keep the Prison in a state of continual agitation and disquiet, and the convicts in insubordination. The convicts would practice upon their good nature and "Christian kindness," and constantly deceive them. It requires a thorough knowledge of the character and disposition of every man, to be able to manage him; to interest and influence him so as to direct his mind to a proper point; and this knowledge is so far from being acquired by transient, or occasional visits at a Prison, where three or four hundred are confined, that it is extremely difficult to be obtained, by one who is among them every day—who orders, directs, and observes them, in all their situations—who has constantly occasion to encourage, admonish, and punish them—who hears their numerous complaints, and receives their numerous requests—who knows their quarrels with each other, their prejudices and friendships, and gets information of their sly tricks, their private conversation, and secret plots for mischief. The fewer persons there are to guide, and govern, and control these sort of men the better. One is better than two, and better than twenty. Select a proper person, and trust to his sole and absolute management. His authority should be single and undivided. Are there "a few individuals of a benevolent and religious character, in the neighbourhood of the Prison," or in the State, select *one* of them; give him the appointment, and let him have all the power and all the authority over the Prison. Let him call into exercise all his benevolence, all his pity, all his humanity, all his compassion for these unfortunate and erring men, all his charity for their failings, all his sorrow for their vices. Let him soothe, persuade, encourage, advise, and admonish them; and after all, he must punish. It is idle to suppose, that a multitude of depraved men, or a multitude of men who have a great many depraved ones among them, can be subdued, restrained, and governed, by kindness and gentle treatment only. Such treatment, I allow, ought always to be used, but something more will be necessary. Coer-

cion and correction must come in aid of kindness, when kindness fails to produce subjection and obedience. But this correction should be administered by the same person who bestows favours. The same hand that punishes the evil disposed, should be reached out for the comfort and encouragement of those who behave well. The same voice which speaks peace to the humble and penitent, should pronounce the punishment on the obstinate and guilty.

But Mr. Gurney's visiting gentlemen are to do all the good offices; they are to soothe, pity, and sympathize with the convicts, grant them forgiveness and indulgencies, recommend for pardon, &c. but leave the Jailor to punish—and whilst in the act of punishing, their compassionate feelings, perhaps, or their better judgment, which would be as bad, would come in and take the culprit out of his hands. I venture to give my opinion, that this would be bad management. What sort of government is there in a family, where one parent corrects a child, and the other excuses, coaxes, and indulges him? Or what sort of children is such management likely to produce?

It is true, the visiting committee of ladies at Newgate, wrought a great change among the females there; but no wonder. Their situation was so wretched from filth and all sort of pollution, and from the total neglect of every thing that could administer to their comfort, either of body or mind, that any attempt at a reformation, must have succeeded. A proper attention of the governor would have done much, and no doubt the kindness and sympathy of their own sex did more; but from a scene and example of this kind, no further inference can be drawn with respect to governing a prison of male convicts, than that kindness, cleanliness, employment, and moral instruction, are proper instruments for the cultivation of such a soil; not that a company of visiting gentlemen would be the most skilful hands to use them.

Buxton, Roscoe, and Gurney, have all borne testimony to the necessity of keeping convicts employed; but this is urged by them, more as a matter which regards the moral effect upon



the convict, his comfort and amusement, and the peace and quiet of the Prison, than for any profit which may be derived from their labour. With us, the most eager inquiry is, how much do the convicts earn? What is the expense to the State for maintaining them? Why are they not made to support themselves? and the like. Men are prone to run into opposite extremes. For my part, I do not see why it is not a fair calculation, to expect a considerable profit from the labour of the convicts—I do not mean over and above their maintenance. They are, in our country, sentenced to hard labour; it is a part of their punishment; and the most of them feel it as such, notwithstanding all Mr. Buxton has said, about their considering it the greatest grievance to be denied work. Neither can there be any thing improper in selecting and making choice of such sort of work to employ them upon, as will be the most profitable; nor in obliging them to do the most that their bodily strength, or even their mental powers will enable them to perform. But as gain or income is not, and certainly ought not to be the main object for which they are confined, by looking too steadily at this point, there is great danger of neglecting to do, what might be of importance in the other designs of the institution, lest it should be expensive, or cost more than the convicts, by their labour, would ever pay for.

I have said, that to labour is a part of their punishment; but it is a reasonable and humane punishment, and one, which, in a peculiar sense may be said to be inflicted for the future benefit of the sufferer. There is, therefore, no excuse for his obstinacy, if he refuses to submit peaceably and cheerfully to this wholesome chastisement. On this ground, I disapprove of what Mr. Roscoe urges, as an essential point in the government of Penitentiaries, viz. allowing the convict a considerable portion of his earnings for his encouragement; and particularly would I object to any part of it being paid to him in the Prison. They should never be hired to do, what it is so obviously their duty to do without being hired. That which can be so justly and reasonably required of them to do, they should be punished

for not doing. They should be made even to do it willingly (if this is not an Irishism) and cheerfully. I would punish them if they looked cross or surly about it. A few chastisements would make them put on a more smiling countenance; and although, perhaps, feigned and affected at first, it would soon become habitual, and at last sincere. And there is no hardship in this; no unjust severity; nothing that can tend to harden the criminal, or in any way counteract the desire of reforming him. Children, says some author, (I believe it is Rousseau) are little men. Now the converse of this proposition is equally true; men are great children. The obstinacy and froward tempers of both must be subdued, before their minds can be prepared for instruction or admonition, and advice avail as it ought.

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## CHAPTER VIII.

*Remarks on Prisons in England; Convicts should be kept separate at nights; Should not be allowed a specific portion of their earnings; May be allowed overstim; Maison de force at Ghent.*

THE people in England having become dissatisfied, both with the extent and effect of capital punishment, have, of late years, turned their attention to the system of Penitentiary Punishment; and the immense expense which they have bestowed on some of the establishments for this purpose, proves both the magnificence of the government, and their faith in this mode of treating criminals.

The prison at Milbank, near London, has cost the enormous sum of 400,000*l.* sterling; near two millions of dollars, and a further expense was contemplated.

The following are considered among the best regulated Prisons in England, and in which the conduct and appearance of the prisoners, indicate a disposition for reformation; and where the result, from a few years experience, writers upon the subject say, justifies the preference to be given to the Penitentiary system, over any other mode or species of punishment heretofore practised: Bury Jail and House of Correction, Ilchester Jail, Manchester New Bailey, Glasgow Bridewell, County House of Correction at Preston, Liverpool Jail, and the Prison at Milbank. In all these, a system of labour is pursued, which not only lessens the actual expense of maintaining the prisoners, but, is considered to have a powerful influence in promoting their reformation, and insuring their future good behaviour and well being in society. At Bury Jail, the Governor told Mr. Buxton, "that after an experience of twenty years as a Jailor, he had found the main points of prison discipline, for security, morals, and health of the prisoners, were, classification, employment, and cleanliness."

In all the abovementioned establishments, an incitement to labour is increased, by allowing each prisoner a certain proportion of his earnings. This proportion, as well as the time and manner of paying it, is different in each prison. At Bury Jail, the convict's earnings are thus divided—one fifth to the Governor, two fifths to the county, and two fifths to the convict; half of this he receives in the prison, and the other half when he is discharged. This prison was calculated with a view of having a separate sleeping room for every prisoner, so that each should sleep solitarily. It would be well if our prisons for convicts were upon this plan. A provision of rooms sufficient to keep each man alone by night, would undoubtedly be attended with very considerable expense; yet this expense should not be withholden, when brought in competition with the advantages which would result to the security, and moral effect of the prison. I do not object to the convicts working together during the day; they are then watched, and a strict

discipline will preserve order, and prevent corrupt intercourse; but during the night they are not watched, they have little or no restraint upon them, and where there are several in a room together, it is reasonable to expect, that plots and mischief may be planned, and some vicious and corrupting language and discourse held among them. To that arrangement of Bury Jail, which allows to the convict two fifths of all his earnings, I object. It is too much. I can see no necessity for it, either in policy, or in a moral point of view. The State or the County has a fair and legal title to all his earnings. The most that I would allow them, should be what they could make by extra exertions. Give them a task, and a good one too; and what they could gain over this, by superior skill, industry, and close application, should be theirs.

Liverpool Jail and House of Correction. Here the prisoner is allowed one quarter of his earnings, and half of this is paid him weekly. "Until this plan of weekly payment was adopted," says Mr. Roscoe, "an inducement was evidently wanting, but this produced a striking effect." I should believe this "striking effect" to be literally true, without borrowing in the least from figurative language. To permit money among convicts, would produce disturbance and quarrelling. It would be to encourage all sorts of trading, bargains, and gambling. With money in their hands, also, it would be next to impossible to prevent them from having liquors; and with such means and sources of corruption, what becomes of your Penitentiary System.

Manchester New Bailey. This Prison contains 382 sleeping cells, intended for as many prisoners, though there are now above 500. Monitors are selected from the most orderly convicts, who assist in governing the rest. They are allowed one sixth of their earnings.

There is one circumstance relating to this Prison, which although quite foreign to my present purpose, I cannot forbear noticing here. The district for which this serves as a

prison-house, contains a population of 250,000. No less than 2500 persons pass through (that is, are committed to) the Prison in a year. The cause of this great corruption of morals in this district, is considered by Mr. Gurney, to be the crowded state of the manufactories!! Let the advocates for increasing manufacturing establishments in our country, look at this!!

At Milbank, the prisoner is allowed 2s. 6d. in the pound, or one eighth part of his earnings, which is paid to him at his departure from the prison. This is not, perhaps, too much if he works well and diligently—but if he is lazy, he should have nothing. On this account I do not think it a good plan to allow convicts any specific portion of their earnings. It would be preferable to allow them only what they could make by overtasking, or work they might do after their daily task was performed. This would give a greater spur to their industry and close application, than could be expected from allowing them a certain proportion of all they should earn. Probably, all of them may have a desire to gain something; if the amount to be gained was left to their own choice, they might be contented with little. Their natural indolence, love of ease, and repugnance to labour, would here, as elsewhere, overcome their desire of gain; they would, perhaps, rather have one dollar, as the portion of easy labour, or a light day's work, than ten, earned by the sweat of their brows. This last method would also tend more to keep them humble and submissive. It is one great mean of governing these men, in preserving order and good subjection among them, to let them know, and continually make them feel, that they have no rights; that, by their vices and violations of law, they have forfeited their liberty, and all the privileges of freemen. That they are slaves and outlaws; and that nothing can redeem them from the wretched state, to which their former misconduct and vicious course of life has brought them, but repentance and reformation, and a fixed determination on future good behaviour. But the surest indication of true repentance

and contrition of heart, is to be looked for in a humble and submissive deportment, and resignation to their fate. Now, it appears to me, that sentiments like these, would not be promoted by entering into bargains or contracts with convicts. To allow them, by established rules, one half, one quarter, or one eighth of the proceeds of all their labour, is at once creating for them rights, which they will be ready enough to demand and defend, with insolence and insubordination.

In Ilchester jail, said to be the best conducted prison in England, they also observe this objectionable mode of allowing the convicts a proportion of their earnings; part of this is paid them weekly, and a part reserved until they leave the prison. The men, in general, says Buxton, receive 9d. a week, and 4 1-2d. is funded for them. This is little enough, but they should have none of it weekly, unless in the shape of some extra food, as an indulgence, and to encourage good behaviour; this always being considered as a favour, and granted on condition and in consideration of their merit in this respect.

The *Maison de Force*, at Ghent, has been highly spoken of as a Penitentiary Establishment, and held up as an example for imitation, and as a full and flattering proof of the good effects of this mode for the punishment of criminals. As to the advantages and success, generally, of the Penitentiary System, I have fully expressed my belief, and upon a full investigation of the subject, I presume there will not be left a doubt upon the minds of reflecting and reasonable men, of their usefulness and superiority over every other species of punishment. But I must hesitate in subscribing to all the practices and modes of proceeding in the *Maison de Force*. It appears that the convicts there, are allowed *all* their earnings, and that there is a public market held *three times a day* within the prison walls, where they may spend the proceeds of such earnings. If this does not both interrupt their employment, and occasion disorders, there must be some miracle or magic in the business.

I must make one further remark upon this establishment, relating to the effects of employment. When Mr. Howard first visited it, twenty or thirty years ago, it was in a flourishing and orderly state, owing to the full employment of all the convicts. But it seems, some self-interested individuals in the vicinity, finding that the profits on their manufactories might be reduced by works carried on in the prison, prevailed upon the government to put a stop to the employments there; so, that when Mr. Howard visited this place again, some years afterwards, he found it in a very depreciated state, both in regard to the appearance and behaviour of the convicts—altogether imputable to their idleness and want of employ.

This should serve as a lesson for us. Attempts have been made, exertions are still making by self-interested individuals, to induce our Legislature to prevent manufacturing establishments in our State Prison, which, should they succeed, would destroy the salutary effects of labour, so necessary for all the great purposes of a Penitentiary Establishment.

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## CHAPTER IX.

*Some views of the Massachusetts State Prison; Place for convicts only; How employed; Their behaviour; Punishment; Schools; Chapel; Encouragement to industry; Faults in the establishment; Discharged convicts; Common crimes decreased; Increase of capital ones no objection to State Prisons; Conclusion.*

HAVING in the last chapter, given some slight notice of several foreign Prisons, I shall, in conclusion, present a view of the Massachusetts State Prison at Charlestown, remarking its advantages and defects, and endeavouring to shew, that, neither in comparison with other institutions of this nature, at home or abroad; or in its design or general effect, has it yet failed to

merit the support of the government, or the encouragement and approbation of all enlightened and reflecting men.

This Prison is a receptacle and place of confinement for convicts only. It was built for the purpose of carrying into effect, the Penitentiary System of punishment; and we believe that the result of fifteen years experience, were it possible to know what now would have been the state of crime, or what loss and mischief the community might have suffered during the same period, had this system never been adopted, would be a most powerful recommendation of the State Prison, and no small proof of the success of the system.

The prisoners are here kept constantly employed; you see none of them idle; every man has some task or employment assigned him, and he is punished if he refuses or neglects it. The labour performed, it is true, is not of the most profitable kind; (or rather, the net profit is not large;) for in so confined a place, and with men who have so little capacities or inclinations to be useful, it cannot be expected that much income should be derived from their labour. The following different trades, or branches of employment, are at present in operation: shoe making, weaving, coopering, smithery, brass foundry, brush making, cabinet work, and stone cutting. These several trades are carried on in different departments or workshops, all within the great yard, but entirely separated and detached from the Prison-House. In these several shops, you see the convicts busily and diligently at work, under the immediate inspection of an overseer, who is stationed in each department; they are perfectly quiet, peaceable, and orderly; you hear no noise but the clatter of the tools; you see nothing but active industry, and civil and submissive behaviour. Visitors always bear testimony to their good manners, and remark, not only their peaceable and cheerful demeanor, but their readiness to please, by showing, when requested, the articles of their manufacture, and explaining the process by which they are perfected. And although visitors are daily and frequently (I am apt to think too frequently) admitted, no instance has been known these five or



six years, of any insult or disrespect being offered to any one, by look, word, or gesture. They are not allowed to converse together, nor to go out of their shop without leave of the overseer. Irons are seldom made use of; a chain with a clog at the end of it, is sometimes, for refractory conduct, or attempting to escape, attached to the leg of the offender, who is obliged to wear it, until, by a humble acknowledgment of his folly and submissive repentance, the Warden is induced to relieve him. The Overseers are constantly enjoined to use no harsh words towards them; to treat them always with mildness; but by no means to suffer any insolence from them, nor allow any obstinate behaviour, disobedience, or improper language to go unpunished. Every offence of such nature, is to be immediately reported to the Warden or Keeper, who orders the offender instantly to the cells. This is the great and general mode of punishment, and with the exception of the clog and chain, the only one now practised. The culprit is confined to a solitary cell, and fed upon a scanty portion of bread and water, until, by hunger, solitude, and reflection, he is reduced to humble submission, a confession of sorrow for his fault, and a promise of future obedience and good conduct; and when he is taken from the cells, this favourable moment for his receiving good impressions, is improved to give him advice and admonition. He is made to understand, that this punishment has been inflicted from necessity, and with a view to his own improvement; that he has brought it upon himself; that the government can have no pleasure in chastisement, but that it holds out encouragement, and rewards for good behaviour, for the very purpose of avoiding the painful necessity of punishing; that vice and wickedness, must and will always be punished; more certainly, and more promptly here, but as unavoidably, wherever committed; that they will ever be attended with wretchedness and misery, and never fail to bring not only disgrace, but punishment, distress, and anguish on all who will not forsake their ways, and by a deep and effectual repentance, return to a better life. Such serious lessons, given in a tone of persuasion and gentleness, and apparent desire to their benefit, it is believed, is

not always lost on minds thus peculiarly prepared by sufferings and solitary reflection to receive it. It is certain, that it has an immediate effect, as they almost always shed tears, and exhibit other strong emotions of sorrow and contrition. Formerly, more severity was added, for aggravated offences, to this punishment. A short chain, with a collar, was fastened to the rock forming the floor of the cell; the collar being fixed round the culprit's neck, he was thus confined to the floor in a very uneasy position. But of late years, this has been disused as rather barbarous, and quite unnecessary. Thus the government of these men is reduced to a very simple operation; both the language and practice of the authority over them, is distinctly this—good conduct will receive favour; bad will as certainly meet with punishment.

The prison is constantly kept in a commendable state of cleanliness; the sleeping cells are very comfortable; and the Hospital, both for its convenient arrangements, and the care taken of the sick, does the highest credit to the attention, skill, and benevolence of the physician.

The scanty portion of sleeping rooms, makes it necessary to keep a number of convicts together by night, as well as day; but care is taken as much as possible so to mix them, as that the least evil may arise from this unavoidable communication. There are several schools for the improvement of the younger convicts in learning, and in moral and religious principles. These schools are conducted by some well disposed among the prisoners, who are capable of teaching the most useful branches of learning, and who, it is believed, are willing to dissuade their pupils from the practice of vice, and encourage them in resolutions of future uprightness and a good life. Some of the lads have been brought from a total ignorance even of their letters, to be good readers and writers, and to a tolerable knowledge in arithmetic. These schools are frequently inspected by the chaplain or warden.

There is a commodious chapel within the inclosure of the great yard, where the convicts hear divine service every Sunday, and where this service is performed according to the establish-

ed rules in our Congregational churches. "The convicts are obliged to attend," says the Directors' book, "and from their orderly behaviour, attention, and apparent devotion, there is reason to believe, that most of them consider it a high and holy privilege, and are benefitted by the moral and religious instruction which they there receive."

In order that force and threatenings should not be the only inducements to labour, but that some encouragement may be given for industry and diligent application, from the hope of reward, there is generally a task given them; and this is designed to be so reasonable, and so within the compass of each man's ability, that, by a little exertion and willingness, he can do something over it, and thus gain pecuniary profit to himself; the proceeds of this excess of labour being placed to his credit, and paid to him when he leaves the Prison, or sent to his friends before, if he chooses; and if, in other respects, he behaves well in the Prison, he may receive the benefit of some small portion of it there, in certain articles of provision which he has a desire for. A man has been known to earn from thirty to forty dollars, by this way of over stint, in eighteen months; and which was paid to him at the end of that time, on expiration of his sentence. It ought, however, to be hard work, and superior activity to gain so much.

The faults and deficiencies of this establishment, may be stated in a few words. They are, first, want of more ample yard room; second, want of greater height in the surrounding walls; and third, want of a sufficient number of lock-up rooms, to keep every man, by night, separate and alone. To remedy these faults, and supply these deficiencies, would be expensive. To build a new wall, and add another prison to the establishment, would cost money; but, until the public is willing to pay this money, it must not expect to obtain all the advantages which might result from a perfect or well-regulated Penitentiary. These, with too great a division in the government of the Prison, are the principal defects in the establishment.

The want of yard-room, cramps and confines the daily operations going on within it. The workshops are so crowded

that the men cannot work to advantage, and some useful operations are neglected, for want of room where they may be performed. The vaults also are a great nuisance, from being situated so near the work shops and the kitchen, and from the necessity of frequently emptying them, and carrying the filth through the yard. But this yard might be so enlarged and extended, as not only to make room for additional workshops, but to admit the tide water from Charles River by a canal. Such a canal would be of great use. It would afford the means of cleaning the vaults and preventing all inconvenience from them, either to the prison or surrounding neighbourhood. It would open a most convenient entrance into the yard, for the stone and wood, and other articles received from the Middlesex Canal. These articles are now, in great quantities for the use of the Prison, landed on the wharf, and dragged into the yard by the convicts, at a very considerable expense of labour. It would subserve the general purposes of cleanliness, and might afford a better supply of water in case of fire.

2d.—The walls which enclose the Prison Yard, should be higher. They are now about fifteen feet; they ought to be at least twenty-five. Every care should be taken, and every provision made for securing these men, without endangering their lives. It must be expected, that they will always be plotting for escape; and whenever they think there is an opportunity, or a prospect of doing it, even at the hazard of their lives, they will be too apt to risk such a forfeiture. It is therefore incumbent on a humane government, to prevent all temptation to such hazards, by providing such a place of confinement, as will insure the safe keeping of the convicts without a resort to arms. The present situation of the prison walls, require that four watchmen should constantly be kept on them to guard the prisoners, with arms in their hands. The consequences are, that two or three have been killed, and several severely wounded in attempting to scale these paltry walls, in the face and fire of armed men. Let me ask the government, if this is not an improvident, as well as melancholy waste of human blood? If the walls were ten or twelve feet higher, these watchmen and their arms

might be spared; and in time, the whole expense of new and higher walls, would be saved in reducing the expense of watchmen.

3d.—The last defect we have noticed in this institution, is the want of a sufficient number of rooms, for a solitary confinement of the prisoners by night. Here is an evil, which it seems, all are ready to exclaim against, but which, none are able or willing to remove. The popular complaint against the State Prison, now is, the corruption of morals, or the opportunity and disposition which the convicts have, for corrupting one another. The necessity of preventing this, and the advantage of solitary confinement in this respect, have been so often urged, that it is needless to repeat arguments in favour of it. There is but one objection to this improvement, and although a weighty one with some people, its advantages ought, undoubtedly, to over-balance it. It may be proper, however, to remark, that this objection will exceed something more than what every person has yet calculated. The extra yearly expense of time and turnkeys, to lock up and let out three or four hundred convicts separately, is to be added to the cost of the buildings, in making up the estimate of such an improvement of the establishment.

And after all this shall have been done, there will still remain a further, more important, and more difficult task to be performed. The public will still have obligations to fulfil towards these men. After the fire and the thunder of the law has passed, the still, small voice of compassion should be heard. It will be the duty of society to receive these erring members back, as reformed men; to encourage in them the sincerity of repentance, by a charitable over-looking of their past failings, and placing in them so much of a guarded confidence, as will assist them in obtaining an honest living, and regaining a good name. Here would be the field for the more proper and useful activity of Mr. Gurney's Visiting Committee. Here, "their benevolence and Christian charity" might be displayed to great advantage. "Let associations

of gentlemen of a benevolent and religious character, be formed in the neighbourhood of the Prison," (or rather, let the whole community be associated for the purpose,) to take these men by the hand the moment they leave the Prison, whilst the good resolutions they may have formed, are fresh and operative; and by urging motives to honest labour, and directing them to employment, turn them from the paths of vice, and the broad road to ruin which are open before them. Without such assistance, it will be most difficult for them to avoid this wide and open road. What can be expected of a man, who, after five or six years confinement, is now to be cast upon a world which has forgotten him, or what is worse, which only remembers, to shun and avoid him. Afraid of every one he meets, and ashamed of being known, he steals slyly along until he reaches one of those haunts of vice and pollution, where only he can find countenance and support; (and to the discredit of our capital, such are suffered, not secretly, but openly, and notoriously to be kept.) Here he meets some old acquaintance to entice him. Pleasures, or sensual indulgencies, which have so long been denied, are here offered to an appetite quickened by restraint; women and strong drink are at once set before him. How is he to escape such a snare? He does not escape. He plucks the tempting fruit. "He takes and eats." His friendly host directs him where and how to acquire means for payment, and then directs the officers of justice, where to seize their victim.

If such, is the career of most of those unhappy men who have passed the ordeal of the State Prison, (and in the existing state of the public sentiment and opinion regarding them, such a career seems almost unavoidable,) one might very reasonably suppose, that crimes would increase among us; and then not quite so reasonably, impute the mischief to the Penitentiary Establishment.

But after all, crimes do not increase; and it can be shewn, that so far at least as it regards those crimes only, which are punishable by State Prison confinement, they have rather decreased

than multiplied of late years. The number of convicts in the Massachusetts State Prison, has been for about two years decreasing, and there are now,\* more than one hundred less than there were in the fall of 1818. The number of convictions in Boston is also yearly decreasing. Upon examining the records, I find that there were convicted and sent to this Prison from that town—in 1816, 68 criminals; in 1817, 58; in 1818, 49; in 1819, 38; and in 1820, only 30. Surely these facts do not justify the belief, that such crimes as are here alluded to, have increased in this Commonwealth.

It is a melancholy and an alarming truth, that crimes of a higher nature, and such as are still capital by the laws in all the United States, have very much increased; and, although this, with men of superficial observation, has been made a cause of complaint against our Penitentiary Establishments and the system at large, as wanting terror, or as being nurseries of vice, yet a little examination and reflection will shew, that there is, in these instances, no foundation for the charge. We hear of murders, and strange, unnatural murders; piracy and daring robberies; but, as all these crimes are, and ever have been punishable with death, there can no clamour, from the perpetration of such, arise against the mildness of State Prison punishment as encouraging them. And, as it does not appear that many, if any of these pirates, robbers, and murderers, have ever been subjects of a State Prison, they must have learned their vices in some other school; and thus, the charge of corruption, so far as it has been adduced from the recent numerous occurrence of great crimes, also falls to the ground.

I have now done. The subject has led me farther than I at first intended, and I have perhaps occupied the columns of a public paper too long, and to little purpose.† The nature and effects of the Penitentiary system of punishment, is, however, an important inquiry; and I have endeavoured, in treating upon it,

\* In November, 1818, there were 383; at the present time, February, 1821, only 280.

† First published in the Palladium

to found my opinions and observations on facts and experience. It is a system which eminently subserves the great cause of humanity; and I would conclude with the same injunction which I ventured to make in the beginning—let us not be hasty to abandon what is so beautiful in theory, and which, with proper management and improvement, will be found in practice, to result in the best interests of society.

## DOCUMENTS

### RELATING TO THE MASSACHUSETTS STATE PRISON.

THIS Prison is situated in Charlestown, a small town separated from Boston by Charles river, and connected with it by two bridges. The Prison was began in 1804, and finished in 1805; and in December of that year, it was opened for the reception of convicts. On the 12th, two were committed, and at the end of the month, there were

In the Prison,	34	Amount brought up,	662
Received in 1806,	42	Received in 1814,	100
1807,	55	1815,	111
1808,	89	1816,	138
1809,	95	1817,	160
1810,	87	1818,	151
1811,	76	1819,	85
1812,	75	1820,	64
1813,	109		
	<hr/>	Total committed to	
Amount carried up,	662	January 1, 1821,	1471
Discharged on expiration of sentence,	858		
“ pardon,	242		
Died,	65		
Escaped,	14		
			<hr/>
		Remaining,	292
			<hr/>



Of the whole committed, there have been—

- 90 females.
- 133 a second time.
- 17 a third do.
- 8 a fourth do.
- 126 sentenced for life; 7 of these are so sentenced under the new law, being third comers. The others, were for counterfeiting and burglary, chiefly; a few for robbery and arson.
- 20 of those pardoned have been committed again.

No white female has been committed a second time.

Of the whole number, January 1st.—

242 white,	}	males.
40 black,		
4 white,	}	females.
6 black,		

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292

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46 males for life.	8 third comers.
49 white foreigners.	5 fourth do.
60 second comers.	1 fifth do.

ABSTRACT of the yearly returns for the following years—

	1816.	1817.	1818.	1819.	1820.
Average No. of convicts,	269	300	348	360	332
Number committed,	138	159	151	85	64
Discharged, time expired,	61	72	95	89	72
Pardoned,	30	27	17	27	25
Deaths,	7	9	8	6	6
Escaped,	3	2	2	0	0

## CRIMES OF THOSE NOW IN PRISON.

Stealing and shop-lifting, . . . . .	221	Amount brought up, . . . . .	276
Counterfeiting, and attempting to pass counterfeit bills, . . . . .	16	Attempt to rape, . . . . .	4
Burglary, . . . . .	21	Adultery, or lascivious communication, . . . . .	3
Forgery, . . . . .	3	Attempt to murder, . . . . .	1
Robbery, . . . . .	8	Conspiracy, . . . . .	2
Arson, . . . . .	5	Manslaughter . . . . .	1
Assault, . . . . .	2	Bestiality, . . . . .	1
		Fraud, . . . . .	3
		Maiming cattle, . . . . .	1
Amount carried up, . . . . .	<u>276</u>	Total, . . . . .	<u>292</u>

## EMPLOYMENT.

Weaving department, . . . . .	43	Hospital, . . . . .	18
Cabinet makers, . . . . .	10	Females, . . . . .	10
Shoe makers, . . . . .	28	Cooks and runners, . . . . .	7
Brass founders, . . . . .	8	Washers and barbers, . . . . .	5
Smiths and filers, . . . . .	10	Coblers, . . . . .	3
Tin workers, . . . . .	3	Waiters and scavengers, . . . . .	7
Coopers, . . . . .	8	Tailors, . . . . .	8
Brush makers, . . . . .	16	Lumpers, employed on wharf, loading and dragging wood, stone, &c. . . . .	15
Nailors, . . . . .	2		
Stone cutters, . . . . .	76		
Oakum pickers,* . . . . .	<u>15</u>		
Total productive labourers, . . . . .	<u>219</u>	Total unproductive, . . . . .	<u>73</u>

All these productive labourers, except the weavers and stone cutters, are let out to contractors, at forty cents per day; except also the oakum pickers who produce but little.

\* These are old and infirm.

## DIET OF THE CONVICTS.

Breakfast and Supper,	}	Hasty pudding and milk, or molasses.
Dinner.	{	Usually soup, made of the offals of beef, shins, heads, livers, &c. with potatoes, rice, and brown bread. This is occasionally varied,* by supplying fish, or pork and beans.
Allowance per day.	{	A pint and a half of Indian meal, made into hasty pudding; one pint of milk, or gill of molasses; fourteen ounces coarse meat and bone, made into soup, with plenty of potatoes; half a pound of bread.

On days when pork or fish are served, the allowance is—half a pound of pork, half a pint of beans; or, half a pound of salt fish, one ounce of butter or lard, and plenty of potatoes.

## GOVERNMENT.

The Government of the Prison is vested in—

- 1st.—A BOARD OF DIRECTORS, consisting of three gentlemen, who have the “whole and exclusive power of directing all matters and things relating to said Prison, the officers, agents, and servants thereof, and of all convicts therein confined:” “To appoint all officers, &c. (except the Warden, Chaplain, and Physician;) to make, ordain, and establish all such rules, by-laws, orders, and regulations, as they may see fit for the government of the Warden, and all other officers, agents, &c. and as may be proper for the maintenance, employment, and instruction of the convicts,” &c.

\* I do not approve of changing diet; that which is wholesome, nourishing, and cheap, should always be furnished, as being all that is necessary. A change only serves to whet and tickle an appetite, and dispose it to luxury.

2d.—A WARDEN, commissioned by the Governour and Council, who is the chief executive officer at the Prison, and whose duty it is, to see all laws made and ordained by the Board of Directors enforced, and rules and regulations for the government of the Prison put in execution. He is to visit the Prison daily, and to “have the care, custody, rule, and charge of the same, and of all persons therein confined,” &c.

3d.—A KEEPER, who resides at the Prison, and who has the whole controul and management, when the Warden is absent.

4th.—3 TURNKEYS,  
10 WATCHMEN,  
8 OVERSEERS,

{ These reside constantly at the Prison, and, with the Keeper and his family, are subsisted there, and form the effective guard of the convicts; 4 sentinels are kept during the day, on the walls which surround the Prison, and this service is performed by the Watchmen.

Besides the above, there is a Commissary, who is also Clerk, a Chaplain, and Physician, to the establishment, whose duties are sufficiently denoted by their offices.

The Governour, Council, and Judges of the Supreme Judicial Court, are by law, “constituted a Board of Visitors of the State Prison, and it is made their duty, annually, and as much oftener as they may think proper, to visit the Prison,” &c.

## EXPENSES and INCOME of the State Prison, from October 1849, to 1850.

EXPENSES.		RECEIPTS.	
PROVISIONS.			
For Meat, Fish, Meal, Molasses, Milk, Groceries, Potatoes, Cider, &c.	11,827 93	Provision department,	Dolls. Cts
EXPENSE ACCOUNT.		Expense department,	9 75
For Oil, Wood, Straw, Lumber, Paints, Glass, Stationary, Tin ware, Furniture, Stove, and Funnels,	3,898 23	Sales of Stone,	226 76
		Sales of Sereus,	21,496 28
		Sales of Oakum,	1,299 16
			1,116 66
IMPROVEMENTS.		LABOUR DEPART. VIZ.	
Stone for new wharf,	31 50	For Shoemakers,	6,107 75
Transport of Convicts,	517 22	" Weavers,	3,058 99
Hospital department, for medicine and stores,	824 15	" Tin workers,	683 78
Clothing and bedding,	3,011 30	" Brushmakers,	1,365 81
Stone department, for rough stone, coal, and steel, &c.	11,617 15	" Coopers,	870 9
Screw department, for wire, heading, &c.	838 98	" Cabinetmakers,	1,344 39
Smiths and Nailors, for coal, iron, nail rods, &c.	2,687 54	" Brass foundry,	977 55
Weavers, for yarn, &c.	2,713 52	" Nailors, Smiths, and Filers,	3,168 32
Pay of officers,	7,266 00		14,575 96
Paid convicts discharged,	79 25		
Oakum department, for Juck,	600 37		
Profit and loss, bad debts,	1,046 06		
		Balance,	8,345 53
			<u>Dolls. 47,070 10</u>

# EXPENSES and INCOME of the State Prison—CONTINUED.

## MASSACHUSETTS STATE PRISON.

Dr.

To cash advanced, for which the Prison is debit,	Dolls. Cts.
“ balance in favour of Prison last year, being difference between 7079 dollars 76 cents advanced, and 18,470 dollars 17 cents due the Prison,	5,734 15
	<u>11,390 41</u>
	Dolls. 17,124 56

To balance brought down, . . . . . 8,345 53  
 “ stock on hand, 1819, . . . . . 23,275 58

Cr.

By debts due the Prison, . . . . .	Dolls. Cts.
“ balance as above, . . . . .	8,779 03
	<u>8,345 53</u>
	Dolls. 17,124 56

By stock on hand this day, viz.

Boots, shoes, and leather, . . . . .	82 00
Oakum, . . . . .	377 54
Nails, spikes, and iron, . . . . .	1110 92
Clothing and bedding, . . . . .	945 92
Stone, wrought and unwrought, 21,557 46	
Yarn for weaving, . . . . .	1,069 26
Screws, . . . . .	<u>2,188 00</u>
	27,731 10
Improvements as above, . . . . .	31 50
Balance, being expenses of the Prison this year, . . . . .	<u>3,858 31</u>

Dolls. 31,620 91

Dolls. 31,620 91

N. B. Under the head of provision, is charged every thing provided for, and consumed by the Keeper's family, Officers, and Watchmen, as well as Convicts. The Directors, Physician, Chaplain, and Warden, are paid at the Treasurer's office, and not brought into the above acct. of expenses, but the amount viz 2,900 dollars, should be added to the balance against the Prison, making 6,758 dollars. 31 cts. expenses for the past year; and this amount will give the whole cost of the maintenance of the establishment for said year, including every kind of expense whatever, and also allowing for 1,046 dollars, 6 cts. past as bad debts, a part of which may be recovered.

There has been a loss of labour during the year, by patients in Hospital, 7,560 } making 15,702 day's lost labour, which at 40 cts.  
 by invalids unable to perform a full day's labour, . . . . . 5,455 } per day would have produced 6580 dollars.  
 by confinement in solitary by sentence of court, . . . . . 779  
 by confinement for misdemeanors in Prison, . . . . . 1,908

## ADDITIONAL CHAPTER.

### *Observations on Transportation.*

A WRITER has lately appeared in one of the Philadelphia papers, who condemns the Penitentiary System altogether, or at least, upon the plan in which these Institutions are at present conducted in the U. States. He seems to think, that some other mode of punishment must be adopted; and he recommends transportation of convicts. He believes with Mr. Roscoe, that the frequent instances of a person being condemned, a second and third time to a penitentiary or place of confinement, is full proof, that this mode of punishment is ineffectual and useless. But this is evidently a mistake; it is only a proof, that all are not reformed or deterred; and to hope or expect that any system can be devised, that shall make every rogue an honest man, or completely extirpate vice from the community, is altogether an utopian idea. Whilst we are such imperfect beings as men, vice and misery will, more or less, abound in the world. A more improved, or more extensive means of education, may do much to promote good morals, and lessen the prevalence of crime; but it is too late to begin with subjects, where, for want of early instruction, habits of idleness and dissipation are formed, and a course of bad life, has already perverted the mind and corrupted the manners. When a malignant disease is suffered to rage and rankle until it is fixed, it is most difficult to remove it; some cases may be relieved, but more will prove mortal.

The writer above alluded to, I am persuaded, makes miscalculations upon the expediency, as well as upon the effects of a system of transportation, and the means we have of carrying such a system into operation. He proposes some of the uninhabited islands, between the southern coast of South America, and the Cape of Good Hope, for the place of exile. But what exclusive claims have the United States to any one of these islands? And is he sure, there would not be many objections

from some of the European powers, to our occupying them for such a purpose? But waving these obstacles, let us suppose these men landed on the island he proposes; how are they to be kept there? how supported, and how prevented from again returning? Those who know any thing of these men, know that they are so fruitful in expedients, and so ingenious in contriving escapes, that they could not be kept long in the place of their exile without guards; and guards would create an immense expense, as is found by the British government in their establishment at Botany Bay.

But what possible chance would there be in such a situation for reform; (for the writer thinks much of the obligation on the government, to use all measures to effect the reformation of convicts.) Left to themselves, without law or government, and with nothing to regulate their conduct but their perverted wills and unrestrained passions, their society, would soon become not much better than that of infernal beings. The mere picture of such a community, is almost too horrid for a virtuous mind to contemplate. Yet, it would have no terrors for lawless and corrupt men, as the gentleman supposes. The idea of going where there should be no law to restrain them; no restrictions upon their conduct and desires; where they would be free from prisons and arrests, from constables and magistrates, would be the most agreeable to such men. "In their march to the ships," as is the case in England, they would go with rejoicings, with rude and indecent mirth, and a sort of depraved pleasure; so that this spectacle, would have no deterring effect upon rogues, or depraved and hardened men like themselves.

This writer refers to the new inhabitants of Pitcairn's island, as an example of morals and piety; but there is a wide difference between the establishment of this society, and a community of exiled convicts. It appears by all the accounts we have had from that place, that the good morals and piety of the few inhabitants of this island, were derived from, and had been taught by one man only; his companions having been cut off in the infancy of the establishment. Now we may easily conceive,



that one man might be reformed, see the evil of his past life, and becoming truly repentant, be capable and desirous of being a preacher of righteousness; and having no one to oppose him, or hinder the good work, we may also suppose that he might succeed in forming a virtuous society from untutored and innocent children; but what is there here, in common with a colony of full grown and depraved convicts? It does not appear, moreover, that the mutineers on board the *Bounty*, were the most depraved and vicious men. They were guilty of an atrocious act to be sure; but there is no doubt they had great provocation, and were driven to it by the tyranny and abuse of their officers; under other government, they might have been peaceable and good moral men.

There is no light, in which transportation can be viewed, and no argument drawn from experience, which can favour or encourage the adopting such a mode of punishment, in preference to the system of Penitentiaries and State prisons.



THE END.

